

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Linda Marie McClure,

Plaintiff,

Case No.: 15cv1312 LAB RBB

V.

Carolyn W. Colvin, Commissioner of
Social Security,

Defendant.

**REPORT AND
RECOMMENDATION GRANTING
PLAINTIFF'S MOTION TO
PROCEED IN FORMA PAUPERIS
[ECF NO. 2]**

On June 15, 2015, Plaintiff Linda Marie McClure (“Plaintiff”), commenced this action against Defendant Commissioner of Social Security for judicial review under 42 U.S.C. § 405(g) of a final adverse decision for social security benefits. (Compl. 1, ECF No. 1.) On the same day, Plaintiff also filed a “Motion and Declaration Under Penalty of Perjury in Support of Motion to Proceed in Forma Pauperis” pursuant to 28 U.S.C. § 1915(a) (the “Motion to Proceed in Forma Pauperis”) [ECF No. 2]. On June 19, 2015, all matters arising out of this social security appeal, including the request to proceed in

1 forma pauperis, were referred to the undersigned [ECF No. 4]. For the reasons explained
2 below, the Motion to Proceed in Forma Pauperis should be GRANTED.

3 All parties instituting any civil action, suit, or proceeding in a district court of the
4 United States, except an application for writ of habeas corpus, must pay a filing fee of
5 \$400. See 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to
6 prepay the entire fee only if the plaintiff is granted leave to proceed in forma pauperis
7 pursuant to 28 U.S.C. § 1915(a). See Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir.
8 1999). All actions sought to be filed in forma pauperis pursuant to 28 U.S.C. § 1915
9 must be accompanied by an affidavit signed by the applicant under penalty of perjury that
10 includes a statement of all assets which shows inability to pay initial fees or give security.
11 28 U.S.C. § 1915(a)(1); S.D. Civ. R. 3.2(a).

12 Here, Plaintiff has submitted an affidavit stating that she is currently unemployed
13 and has no bank account or savings. (Pl.'s Mot. Proceed in Forma Pauperis 2, ECF No.
14 2.) She has no assets and has received no income or benefits from any source in the past
15 twelve months. (Id. at 2-3.) Plaintiff does not own a car or any real property. (Id.) She
16 lives with her adult son who provides for her daily expenses. (Id. at 3.) Based on the
17 declaration regarding her current financial resources, Plaintiff has sufficiently shown that
18 she cannot pay the filing fee because of her poverty. Adkins v. E.I. DuPont de Nemours
19 & Co.

20 335 U.S. 331, 339-40 (1948). Because McClure has satisfied the requirements of

1 28 U.S.C. § 1915(a), the Court recommends that her Motion to Proceed in Forma
2 Pauperis be GRANTED.

3 This matter is suitable for action by the District Judge in this case without the need
4 for an objection period. See Minetti v. Port of Seattle, 152 F.3d 1113, 1114 (9th Cir.
5 1998) ("Consequently, we conclude that Minetti was not entitled to file written objections
6 to the magistrate judge's recommendation that Minetti's application to proceed in forma
7 pauperis be denied.").

8 Dated: July 7, 2015



9 RUBEN B. BROOKS
10 UNITED STATES MAGISTRATE JUDGE
11
12 cc: Judge Burns
13 All Parties of Record
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